

BETH MALLORY

IBLA 80-302

Decided May 19, 1980

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Regulation 43 CFR 3833.1-2(d) requires that each claim or site filed shall be accompanied by a \$5 service fee, which is not returnable. A notice or certificate of location will not be accepted if it is not accompanied by the service fee and will be returned to the owner.

2. Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of statutes and duly promulgated regulations.

APPEARANCES: Beth Mallory, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Beth Mallory, hereinafter appellant, appeals from a decision dated November 21, 1979, of the Idaho State Office, Bureau of Land Management (BLM), which declared void and abandoned placer mining claim "Better Than Nothing Mine." The BLM, relying upon section 314 of the Federal Land Policy Management Act of 1976 (FLPMA), 43 U.S.C § 1744 (1976), and the corresponding regulation, 43 CFR 3833.1-2(d), found appellant's filing to be unacceptable in that it was not accompanied by the required filing fee of \$5.

[1] The applicable regulation, 43 CFR 3833.1-2(d), specifically provides: "Each claim or site filed shall be accompanied by a \$5 service fee which is not returnable. A notice or certificate of location will not be accepted if it is not accompanied by the service fee and will be returned to the owner." This is a mandatory requirement. Without payment of the filing fee, there is no recordation. L. Leon Jennings, 42 IBLA 47 (1980); Joe B. Cashman, 43 IBLA 239 (1979). As a result of appellant's failure to submit the appropriate filing fee, BLM properly declared her mining claim abandoned and void, pursuant to the regulation cited above.

[2] Appellant, in her statement of reasons on appeal, indicated that she failed to submit the required filing fee because in a conversation with BLM officials, and in the reading of a newspaper article, which discusses the filing requirements, there was no mentioning of a \$5 filing fee. Appellant also states that BLM never informed her of the \$5 filing fee requirement, and that it is her contention that she showed clear intent to file the claim with BLM before the October deadline. The Board has held in previous cases that all persons dealing with the Government are presumed to have knowledge of duly promulgated regulations regardless of their actual knowledge of what is contained in such regulations. Bernard B. Gencorelli, 43 IBLA 7 (1979); Fred S. Ghedarducci, 41 IBLA 277 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

James L. Burski
Administrative Judge

